

IFW

Docket: 06074

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

**MAIL STOP AMENDMENT**

Claude Escarguel

Group Art Unit: 1645

Serial No.: 10/583,771

Examiner: Jana A. Hines

Filed: June 21, 2006

For: METHOD FOR SEROLOGICAL DIAGNOSIS AND DETERMINATION OF  
IMMUNISATION STATUS, COMPRISING VARIOUS CONTROLS

**RESPONSE TO ELECTION REQUIREMENT**

U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Amendment  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This is in response to the requirement for election of species that was made under 35 U.S.C. §121 on June 23, 2008, in the above-mentioned application.

The Office has required the Applicant to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally found to be allowable: bacteria, viruses, parasites and fungi.

Applicant hereby elects to prosecute the species identified by the Office as bacteria, with traverse.

It is believed that claims 1-12 and 14-34 read on the elected species. Applicant does not agree with the position taken by the Office that "if bacterium is selected, then claims 9, 10, 11, 12, 20 and 28-29 with respect only to the bacteria will be examined". Clearly, claims 1-12 and 14-34 all read on the elected species.

Applicant respectfully traverses the election requirement



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on the grounds that the Office has not shown even a *prima facie* case that a serious burden would be placed on the Examiner if the recited species were to be examined together. Accordingly, since it has not been shown by the Office that a serious burden would be placed on the Examiner if the recited species were initially to be examined together, Applicant submits that requirement for election of species cannot be properly maintained. The election requirement is clearly improper, and it should be withdrawn.

It is believed that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

Date: July 16, 2008

By:



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